

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WINDA K. KIDD,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 2:09-cv-12275

Hon. George Caram Steeh
Magistrate Judge Donald A. Scheer

ORDER ACCEPTING REPORT AND RECOMMENDATION (#21);
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (#20);
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (#12), AND;
DISMISSING PLAINTIFF'S CLAIM

This matter is before the court on the parties' cross-motions for summary judgment as to plaintiff Winda K. Kidd's claim for judicial review of defendant Commissioner of Social Security's denial of his January 13, 2006 applications for disability insurance benefits and supplemental security income. The matter was referred to Magistrate Judge Donald A. Scheer. On February 23, 2010, Magistrate Judge Scheer issued a eight-page Report and Recommendation recommending that defendant's motion for summary judgment be granted, that plaintiff's motion for summary judgment be denied, and that judgment enter in favor of defendant Commissioner. Plaintiff has filed a timely objection to the Report and Recommendation. See 28 U.S.C. § 636(b)(1); E.D. Mich. L.R. 72.1(d)(2).

Administrative Law Judge ("ALJ") John Christensen denied plaintiff's application for social security disability benefits, finding that although plaintiff was impaired as a result of a history of small bowel obstruction, a bulging lumbrosacral disk, a history of a hiatal hernia

and mental depression, he did not have an impairment or combination of impairments severe enough to meet or equal the Commissioner's published list of impairments. The ALJ restricted plaintiff from jobs requiring him to sit or stand for prolonged periods or that involve pushing or pulling with either arm. The ALJ further restricted plaintiff from jobs exposing him to frequent changes in the workplace, moving machinery, or unprotected heights. Nonetheless, the ALJ found that Plaintiff retains the capacity to perform any number of sedentary jobs, as outlined by the Vocational expert.

In his Report and Recommendation, Magistrate Judge Scheer considered the totality of the evidence in reviewing the Commissioner's conclusions. See Landsaw v. Secretary of Health and Human Services, 803 F.2d 211, 213 (6th Cir. 1986). The record indicates the Magistrate appropriately weighed the medical record, and the opinions of plaintiff's physician and the government's doctors. Through careful analysis, Magistrate Scheer concluded that the Commissioner met his burden of proving the existence of jobs that can accommodate plaintiff's restrictions.

Plaintiff filed an objection on March 9, 2010. The objection restates plaintiff's previous allegations that he was disabled by abdominal and stomach pain, as well as discomfort in his back, neck, hands and shoulder. After reviewing the record and the Report and Recommendation, it is clear that Magistrate Scheer fully considered plaintiff's allegations. There is no established objective medical cause for plaintiff's complaints of disabling pain in his back, neck and arm. Medical examinations showed these areas were normal or near-normal. It is also clear from the record that there is no connection between plaintiff's functional limitations and his abdominal pains. The court is satisfied with the careful analysis by Magistrate Scheer and finds no error in it.

Accordingly, the court hereby ACCEPTS Magistrate Judge Scheer's February 23, 2010 Report and Recommendation as its own. Defendant Commissioner of Social Security's motion for summary judgment is hereby GRANTED. Plaintiff Winda K. Kidd's motion for summary judgment is hereby DENIED. Plaintiff's claims are hereby DISMISSED with prejudice.

SO ORDERED.

Dated: March 18, 2010

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 18, 2010, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk